

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
PATRICIA RODNEY,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.  
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**DECLARATION OF JOHN  
SCHEMITSCH IN SUPPORT  
OF DEFENDANTS' PARTIAL  
MOTION TO DISMISS THE  
COMPLAINT**

22-cv-1445 (LAK)

**John Schemitsch**, an attorney, duly admitted to practice in the Southern District of New York, declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am a Senior Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for defendants City of New York, Sgt. Hernandez, and Officer Clement in the above-captioned case.

2. I am familiar with the facts of this case and submit this declaration to place the relevant documents on the record in support of defendants' partial motion to dismiss the Complaint, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

3. Annexed hereto as Exhibit A is plaintiff's Complaint, which was filed on February 23, 2022 on the Civil Docket as Document No. 5.

4. Exhibit B is video of the alleged incident recorded through the body worn camera of one of the police officers present, which is linked to and referenced in plaintiff's complaint at ¶ 39. Exhibit B can be viewed via the link provided in the Complaint:

[https://www.dropbox.com/s/voti2r13wd64gu6/2\\_Extraction\\_1\\_1\\_AXON\\_Body\\_2\\_Video\\_2020-12-02\\_1803.mp4?dl=0](https://www.dropbox.com/s/voti2r13wd64gu6/2_Extraction_1_1_AXON_Body_2_Video_2020-12-02_1803.mp4?dl=0)

5. Annexed hereto as Exhibit C are three still frame images captured from the video contained in Exhibit B.

6. Annexed hereto as Exhibit D is NYPD Patrol Guide, 203-29.

Date: New York, New York  
September 7, 2022

HON. SYLVIA O. HINDS-RADIX  
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City of New York  
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By: /s/  
John Schemitsch  
Senior Counsel

cc: **BY ECF**  
ALL COUNSEL OF RECORD